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**OFFICE OF PETITIONS**

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In re Patent No. 6,342,596	:	
Issued: 29 January, 2002	:	
Application No. 09/304,121	:	DECISION ON PETITION
Filed: 3 May, 1999	:	
Attorney Docket No.: 870109.409	:	

This is a decision on the renewed petition filed on 14 April, 2006, under 37 C.F.R. §1.378(c) seeking to reinstate the instant patent, Patent No. 6,342,596 (the '596 patent), which expired for failure to pay the maintenance fee and small surcharge then due.

For the reasons below, the instant petition is **GRANTED**.

**I. JURISDICTION**

The '596 patent issued on 29 January, 2002. The grace period for paying the first maintenance fee expired at midnight 29 January, 2006. Thus, the petition was timely filed within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e).

A petition under 37 C.F.R. §1.378(c) requires the petition, surcharge/fee for acceptance of the maintenance fee, statement of unintentional delay by the proper party in interest, and the maintenance fee due.

### FACTS AND LAW


The Office may accept unintentionally delayed payments of a maintenance fee under 37 C.F.R. §1.378(c)<sup>1</sup> if the fee is paid within 24 months of the expiration of the patent and Petitioner: (a) files a petition, (b) pays the maintenance fee, (c) pays the surcharge, and (d) makes the statement of unintentional delay.

### CONCLUSION

Petitioner has satisfied the statutory and regulatory requirements for the petition. Therefore, the instant petition under 37 C.F.R. §1.378(c) is **granted**, and the first maintenance fee is accepted as of the mail date of this decision.

The instant file is being released to IFW Files Repository.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

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<sup>1</sup> The regulations at 37 C.F.R. §1.378 provide in pertinent part:

**§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.**

(a) The Commissioner may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Commissioner to have been unavoidable (paragraph (b) of this section) or unintentional (paragraph (c) of this section) and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. If the Commissioner accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired, but will be subject to the conditions set forth in 35 U.S.C. 41(c)(2).

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(c) Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include:

- (1) The required maintenance fee set forth in § 1.20 (e) through (g);
- (2) The surcharge set forth in § 1.20(i)(2); and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

(d) Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. (e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(i) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.